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8 **IN THE UNITED STATES DISTRICT COURT**
9 **FOR THE EASTERN DISTRICT OF CALIFORNIA**
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11 PHILIP JOHN JONES,

12 Plaintiff,

13 v.

14 SACRAMENTO COUNTY,

15 Defendant.
16

No. 2:23-CV-0817-DMC-P

ORDER

17 Plaintiff, a prisoner proceeding pro se, brings this civil rights action pursuant to
18 42 U.S.C. § 1983. Pending before the Court is Plaintiff's motion for the appointment of counsel
19 and an extension of time to file a second amended complaint. See ECF No. 10.

20 The United States Supreme Court has ruled that district courts lack authority to
21 require counsel to represent indigent prisoners in § 1983 cases. See Mallard v. United States Dist.
22 Court, 490 U.S. 296, 298 (1989). In certain exceptional circumstances, the Court may request the
23 voluntary assistance of counsel pursuant to 28 U.S.C. § 1915(e)(1). See Terrell v. Brewer, 935
24 F.2d 1015, 1017 (9th Cir. 1991); Wood v. Housewright, 900 F.2d 1332, 1335-36 (9th Cir. 1990).
25 A finding of "exceptional circumstances" requires an evaluation of both the likelihood of success
26 on the merits and the ability of the plaintiff to articulate his claims on his own in light of the
27 complexity of the legal issues involved. See Terrell, 935 F.2d at 1017. Neither factor is
28 dispositive and both must be viewed together before reaching a decision. See id. In Terrell, the

1 Ninth Circuit concluded the district court did not abuse its discretion with respect to appointment
2 of counsel because:

3 . . . Terrell demonstrated sufficient writing ability and legal knowledge to
4 articulate his claim. The facts he alleged and the issues he raised were not
5 of substantial complexity. The compelling evidence against Terrell made it
6 extremely unlikely that he would succeed on the merits.

7 Id. at 1017.

8 In the present case, the Court does not at this time find the required exceptional
9 circumstances. Other than his incarceration, Plaintiff cites no reasons supporting the appointment
10 of counsel. Plaintiff's request for counsel will, therefor, be denied. The Court will, however,
11 grant Plaintiff additional time to file a second amended complaint as directed in the Court's
12 January 23, 2024, order.

13 Accordingly, IT IS HEREBY ORDERED as follows:

- 14 1. Plaintiff's request for the appointment of counsel, ECF No. 10, is
15 DENIED.
- 16 2. Plaintiff's motion for an extension of time, ECF No. 10, is GRANTED.
- 17 3. Plaintiff shall file a second amended complaint within 60 days of the date
18 of this order.

19 Dated: February 22, 2024



20 DENNIS M. COTA
21 UNITED STATES MAGISTRATE JUDGE
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